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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,376	03/20/2001	Andrew P. Meurer	8480	1283

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EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/812,376	Applicant(s) ANDREW P. MEURER	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with numerous instances of claim language whose meaning is uncertain, in terms of how the structure of the invention is defined. Examples of such language include "interior designs reflecting characteristics" (claim 1), "fulfilling the needs of the particular type of consumer" (claim 1), "multipurpose customer interaction center" (claims 1, 11 and 17), "interior designs reflecting characteristics of a particular type of consumer" (claim 1), "area where customers can socialize" (claims 2, 13 and 18), "activity area for children" (claim 2), "public speaking accommodations" (claims 2 and 18), "educational materials" (claims 3, 5 and 19), "scheduling features" (claims 3 and 19), "informative marketing materials" (claims 4 and 18), "topics of interest" (claim 4), "highlight center" (claim 5), "seasonal and promotional products" (claim 5), "attuned with the particular type of consumer's diet" (claim 6), and "interior designs suitable for" (claim 11).

Also claim 10 contains several examples of language which lacks antecedent basis, including "the nutrition center", "the equipment center" and "the personal hygiene center".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes & Noble in view of Perkowski. Official Notice is taken that it is well known to provide a partitioned section within a store which contains a variety of products. As an example, Barnes & Noble bookstores contain partitioned sections for audio products, and children's books and games. As discussed above, it is not clear how the phrase "reflecting characteristics of a particular type of consumer" limits the invention structurally. In any event, the children's section of Barnes & Noble contains decorations and designs to indicate a children's section, and the audio section contains signs and other indicia indicating that music and other audio merchandise are available within the section. Barnes & Noble fails to disclose a customer interaction center. However, such centers are known in retail establishments. Perkowski discloses in the Figures and in the specification one example of a multipurpose customer interaction center, comprising a computer terminal which provides Internet access. It would have been obvious to one of ordinary skill in the relevant art to modify the system of Barnes & Noble by providing computer terminals for the purpose of allowing a customer to access additional information. With respect to the other limitations of claims 2, 13 and 18, the other elements, including an area for socialization, an activity area and public speaking

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accommodations, are extremely broad. Any area is capable of being used by people for socializing, speaking or "activity". Also, with respect to claims 3, 14 and 19, the claim language pertaining to online shopping, educational materials etc. is functional language which describes the intended purpose of the device. The only structural limitation of claims 3, 14 and 19 is Internet access, which is disclosed by Perkowski. The signs in Barnes & Noble amount to marketing and educational materials, thus reading on the limitations of claim 4. The Barnes and Noble sections also contain seasonal items such as Christmas albums and books, thus reading on claim 5. With respect to claims 6-9, 11, 15, 17 and 20 the particular types of consumer goods claimed are obvious variations on the known sections of Barnes & Noble. Particularly in the case of claim 11, retail children's stores containing different sections for different types of consumer goods are known, Buy Buy Baby being one example. With respect to claim 10, Barnes & Noble stores have different floor patterns for different sections. With respect to claim 12, Official Notice is taken that it is known to provide lavatories and water fountains sized for small children in areas frequented by such children.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes & Noble in view of Perkowski, and further in view of Fulle. Barnes & Noble as viewed in combination with Perkowski discloses all of the limitations of the claim with the exception of merchandising fixtures on casters. However, such fixtures are well known in retail establishments. Fulle discloses in the Figures and in the specification one example of a merchandising fixture having casters thereon. It would have been obvious to one of ordinary skill in the relevant art to modify the system of Barnes & Noble by

providing merchandising fixtures on casters for the purpose of allowing a user to easily move the fixtures to a desired layout.

### ***Response to Arguments***

Applicant's arguments filed on May 18, 2004 have been fully considered but they are not persuasive. With respect to the rejections under 35 USC 112, it is understood and appreciated that the claim language is to be interpreted in light of what one of ordinary skill in the art would understand the invention to be, and is not to be examined in a vacuum. However, the excerpts from the specification cited by applicant do not adequately define or describe the structural limitations of the rejected claim language such that one of ordinary skill in the relevant art would be apprised of the scope of the invention. To address specific terminology noted by applicant, "retail establishment" and "specialized merchandising system" were not rejected and are not indefinite. Applicant's arguments concerning "particular type of consumer" are persuasive; that rejection has been withdrawn. The arguments concerning "'multipurpose customer interaction center" are not persuasive, as the phrase denotes an intended use of an area, rather than any particular structure. Many of the other terms cited in the rejection are rejected for similar reasons; they describe intended purposes of areas. Virtually any area can be said to be an "activity area for children." (The Examiner can personally attest to this one. Because the claim language not not adequately define structural limitations to the invention, the rejections under 35 USC 112 are maintained.

The remarks also fail to address the rejection of claim 10. Claim 10 recites “the nutrition center”, “the equipment center” and “the personal hygiene center”; however, these terms lack antecedent basis because claim 1 (from which claim 10 depends) does not recite a nutrition center, or an equipment center, or a personal hygiene center. Because new grounds of rejection are presented herein, this Action is made non-final.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bustos, Miller, Stoddard and Romero disclose various merchandising fixtures on casters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF  
August 19, 2004

  
KURT FERNSTROM  
PRIMARY EXAMINER